

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of	:	Customer Number: 46320
	:	
Kwasi ASARE, et al.	:	Confirmation Number: 3074
	:	
Application No.: 10/725,728	:	Group Art Unit: 2191
	:	
Filed: December 2, 2003	:	Examiner: M. Brophy
	:	
For: SCRIPT GENERATION ENGINE AND MAPPING SEMANTIC MODELS FOR TARGET PLATFORM	:	

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Reply Brief is submitted under 37 C.F.R. § 41.41 in response to the EXAMINER'S ANSWER dated September 11, 2009.

The Examiner's response to Appellants' arguments submitted in the Third Appeal Brief of May 19, 2009, raises additional issues and underscores the factual and legal shortcomings in the Examiner's rejection. In response, Appellants rely upon the arguments presented in the Third Appeal Brief, and the arguments set forth below.

REMARKS

Non-Compliant Examiner's Answer

On page 6 of the Third Appeal Brief, Appellants pointed out where the Examiner's Answer is required to include particular content discussed in M.P.E.P. § 1207.02, yet the Examiner has completely ignored this requirement in the Examiner's Answer. As noted throughout the prosecution of this application and in the Appeal Brief, the Examiner has failed to properly establish the facts underlying the Examiner's analysis. Appellants' position is that these omissions in the Examiner's prima facie analysis are correctable by the Examiner, and the correction of these omissions would help both Appellants and the Honorable Board gain a better understanding of the alleged findings of facts and analysis employed by the Examiner in rejecting the claims. Thus, Appellants respectfully request that the Honorable Board remand the present application to the Examiner to address these omissions.¹

In response to the arguments presented on page 10, lines 2-21 of the Third Appeal Brief, the Examiner asserted the following in the paragraph spanning pages 13 and 14 of the Examiner's Answer:

¹ The Board has persistently declined to uphold an Examiner because of omissions in the Examiner's half of the record. *E.g.*, Ex parte Dalciden, Appeal 2007-1003 (Mar. 14, 2007) (remanding because examiner failed to respond to arguments in the Appeal Brief); Ex parte Rozzi, 63 USPQ2d 1196, 1200-03 (BPAI 2002) (remanding without decision because of a host of examiner omissions and procedural errors); Ex parte Gambogi, 62 USPQ2d 1209, 1212 (BPAI 2001) ("We decline to tell an examiner precisely how to set out a rejection."); Ex parte Jones, 62 USPQ2d 1206, 1208 (BPAI 2001) (refusing to adjudicate an issue that the examiner has not developed); Ex parte Schricker, 56 USPQ2d 1723, 1725 (BPAI 2000) ("The examiner has left applicant and the board to guess as to the basis of the rejection ... We are not good at guessing; hence, we decline to guess."); Ex parte Bracken, 54 USPQ2d 1110, 1112-13 (BPAI 1999) (noting that the appeal is "not ripe" because of omissions and defects in the examiner's analysis).

Examiner respectfully disagrees. First, it should be noted, the claim does not recite a "plurality of semantic models" but rather a repository or semantic models. Regardless, The data structure 230 includes an "Installation-Relationship Matrix 226", which holds a plurality of entries which model the dependencies between the application components. For example, Col. 10, Ln 44, States "Matrix Table 2, corresponds to the equivalent graphs 130 and 132 in FIG. 3, which are termed digraphs or directed graphs." That's is, there is one data structure 230, that the examiner equates to the repository, which in turn holds a matrix of multiple dependency entries which equates the semantic models of the applicant's claim. Therefore, this rejection is maintained. (emphasis added)

Referring to the underlined-portion of the above-reproduced passage, the Examiner appears to working with an inaccurate view of the claim language. Claim 1 recites "a repository or semantic models" and not "a repository or semantic models," as alleged by the Examiner. Thus, contrary to the Examiner's position, a repository of semantic modelsl refers to a plurality of semantic models.

Contrary to the Examiner's assertion, the single "Installation-Relationship Matrix 226" of Marino does not correspond to a plurality of semantic models. The fact that the matrix 226 (examples are shown in Table 1 and Table 2 of Marino) includes "a plurality of entries" does not convert each entry into a different model. Instead, the matrix 226 itself constitutes a single model. The Examiner's implied claim construction is inconsistent with the language of the claims which also states "a mapping of individual listings in said semantic models." Thus, each model includes a sub-component (i.e., individual listings), which includes a listing of component relationships, target platform requirements and platform neutral instructions (see claim 2).

If the "plurality of entries" of Marino are construed to correspond to a plurality of semantic models, then the Examiner cannot establish that Marino also teaches that the semantic models includes these sub-components (i.e., a mapping of individual listings) in the semantic models. Therefore, when the Examiner equates the "one data structure 230" to the repository,

1 the Examiner has mischaracterized the scope and content of Marino. Referring to Figure 5 of
2 Marino, the data structure 230 includes a single installation relationship matrix 226. Thus, as
3 argued in the Third Appeal Brief, fails to disclose a repository of a plurality of semantic models.
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6 The Examiner's response to the arguments presented on page 12, lines 2 through page 13,
7 line 2 of the Third Appeal Brief is found in the paragraph spanning pages pages 17 and 18 of the
8 Examiner's Answer. Appellants respectfully submit that the Examiner's analysis ignores the
9 substance of Appellants' arguments. Specifically, there is a difference between the components
10 (which run on a target platform) and the target platform itself.
11

12
13 The Examiner's response to the arguments presented on page 13, line 5 through page 14,
14 line 3 of the Third Appeal Brief as to claim 8 is found on pages 19 and 20 of the Examiner's
15 Answer. Even assuming arguendo that the graph stored in the data structure 230 includes
16 dependency relationships, the Examiner's analysis still fails to establish that the alleged "graph"
17 identifies "a set of dependent components required to be present in the specific target platform."
18

For the reasons set forth in the Third Appeal Brief of May 19, 2009, and for those set forth herein, Appellants respectfully solicit the Honorable Board to reverse the Examiner's rejection under 35 U.S.C. § 103.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: November 12, 2009

Respectfully submitted,

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CUSTOMER NUMBER 46320